



House of Representatives

File No. 90

General Assembly

January Session, 2011

(Reprint of File No. 38)

House Bill No. 6371
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
March 18, 2011

**AN ACT CONCERNING EXEMPTIONS FROM THE CERTIFICATE OF
NEED PROCESS FOR RESEARCHERS UTILIZING CERTAIN
TECHNOLOGIES THAT HAVE NO IMPACT ON HUMAN HEALTH.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsections (a) and (b) of section 19a-638 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) A certificate of need issued by the office shall be required for:

5 (1) The establishment of a new health care facility;

6 (2) A transfer of ownership of a health care facility;

7 (3) The establishment of a free-standing emergency department;

8 (4) The termination by a short-term acute care general hospital or
9 children's hospital of inpatient and outpatient mental health and
10 substance abuse services;

11 (5) The establishment of an outpatient surgical facility, as defined in

12 section 19a-493b, or as established by a short-term acute care general
13 hospital;

14 (6) The termination of an emergency department by a short-term
15 acute care general hospital;

16 (7) The establishment of cardiac services, including inpatient and
17 outpatient cardiac catheterization, interventional cardiology and
18 cardiovascular surgery;

19 (8) The acquisition of computed tomography scanners, magnetic
20 resonance imaging scanners, positron emission tomography scanners
21 or positron emission tomography-computed tomography scanners, by
22 any person, physician, provider, short-term acute care general hospital
23 or children's hospital, except as provided for in subdivision (23) of
24 subsection (b) of this section;

25 (9) The acquisition of nonhospital based linear accelerators;

26 (10) An increase in the licensed bed capacity of a health care facility;

27 (11) The acquisition of equipment utilizing technology that has not
28 previously been utilized in the state; and

29 (12) An increase of two or more operating rooms within any three-
30 year period, commencing on and after October 1, 2010, by an
31 outpatient surgical facility, as defined in section 19a-493b, or by a
32 short-term acute care general hospital.

33 (b) A certificate of need shall not be required for:

34 (1) Health care facilities owned and operated by the federal
35 government;

36 (2) The establishment of offices by a licensed private practitioner,
37 whether for individual or group practice, except when a certificate of
38 need is required in accordance with the requirements of section 19a-
39 493b or subdivisions (8) and (9) of subsection (a) of this section;

- 40 (3) A health care facility operated by a religious group that
41 exclusively relies upon spiritual means through prayer for healing;
- 42 (4) Residential care homes, nursing homes and rest homes, as
43 defined in subsection (c) of section 19a-490;
- 44 (5) An assisted living services agency, as defined in section 19a-490;
- 45 (6) Home health agencies, as defined in section 19a-490;
- 46 (7) Hospice services, as described in section 19a-122b;
- 47 (8) Outpatient rehabilitation facilities;
- 48 (9) Outpatient chronic dialysis services;
- 49 (10) Transplant services;
- 50 (11) Free clinics, as defined in section 19a-630;
- 51 (12) School-based health centers, community health centers, as
52 defined in section 19a-490a, not-for-profit outpatient clinics licensed in
53 accordance with the provisions of chapter 368v and federally qualified
54 health centers;
- 55 (13) A program licensed or funded by the Department of Children
56 and Families, provided such program is not a psychiatric residential
57 treatment facility;
- 58 (14) Any nonprofit facility, institution or provider that has a contract
59 with, or is certified or licensed to provide a service for, a state agency
60 or department for a service that would otherwise require a certificate
61 of need. The provisions of this subdivision shall not apply to a short-
62 term acute care general hospital or children's hospital, or a hospital or
63 other facility or institution operated by the state that provides services
64 that are eligible for reimbursement under Title XVIII or XIX of the
65 federal Social Security Act, 42 USC 301, as amended;
- 66 (15) A health care facility operated by a nonprofit educational

67 institution exclusively for students, faculty and staff of such institution
68 and their dependents;

69 (16) An outpatient clinic or program operated exclusively by or
70 contracted to be operated exclusively by a municipality, municipal
71 agency, municipal board of education or a health district, as described
72 in section 19a-241;

73 (17) A residential facility for the mentally retarded licensed
74 pursuant to section 17a-227 and certified to participate in the Title XIX
75 Medicaid program as an intermediate care facility for the mentally
76 retarded;

77 (18) Replacement of existing imaging equipment if such equipment
78 was acquired through certificate of need approval or a certificate of
79 need determination, provided a health care facility, provider,
80 physician or person notifies the office of the date on which the
81 equipment is replaced and the disposition of the replaced equipment;

82 (19) Acquisition of cone-beam dental imaging equipment that is to
83 be used exclusively by a dentist licensed pursuant to chapter 379;

84 (20) The termination of inpatient or outpatient services offered by a
85 hospital, except as provided in subdivision (4) of subsection (a) of this
86 section and section 19a-639e;

87 (21) The partial or total elimination of services provided by an
88 outpatient surgical facility, as defined in section 19a-493b, except as
89 provided in section 19a-639e; [or]

90 (22) The termination of services for which the Department of Public
91 Health has requested the facility to relinquish its license; or

92 (23) Acquisition of any equipment by any person that is to be used
93 exclusively for scientific research that is not conducted on humans.

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| This act shall take effect as follows and shall amend the following sections: |
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| Section 1 | <i>from passage</i> | 19a-638(a) and (b) |
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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 12 \$ |
|------------------------|-----------------------------|-----------------|
| Public Health, Dept. | GF - Potential Revenue Loss | 500 |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill as amended results in a potential General Fund revenue loss of \$500 in FY 12. It exempts certain equipment from Certificate of Need (CON) requirements, if the equipment is being used for scientific research that does not involve human beings. In 2011, the Department of Public Health (DPH) was notified of an individual interested in conducting research on non-human subjects using imaging equipment (currently requiring a CON). Since 2005, the Office of Health Care Access (a division of DPH) has not received any CON applications for equipment being utilized for scientific research not involving human beings. Sec. 19a-639a CGS establishes the \$500 CON application fee.

House "A" makes a clarifying technical change to the underlying bill and does not result in a fiscal impact.

The Out Years

The fiscal impact identified above may occur in the out years to the extent that: (1) individuals conduct scientific research not involving human beings, and (2) do so using equipment that, under existing law, requires a CON and would otherwise generate \$500 in application fee revenue.

OLR Bill Analysis**HB 6371 (as amended by House "A")******AN ACT CONCERNING EXEMPTIONS FROM THE CERTIFICATE OF NEED PROCESS FOR RESEARCHERS UTILIZING CERTAIN TECHNOLOGIES THAT HAVE NO IMPACT ON HUMAN HEALTH.*****SUMMARY:**

This bill exempts from certificate of need (CON) review acquisition of any equipment used exclusively for scientific research on non-humans. The Office of Health Care Access (OHCA) division of the Department of Public Health (DPH) administers the CON program. Generally, a CON authorization is required when a health care facility proposes (1) establishment of new facilities or services, (2) a change in ownership, (3) the purchase or acquisition of certain equipment, or (4) termination of certain services.

*House Amendment "A" clarifies that the research must not be conducted on human beings.

EFFECTIVE DATE: Upon passage

Related Bill

HB 5048, favorably reported by the Public Health Committee, requires any hospital seeking to terminate inpatient or outpatient services currently offered by the hospital to file a CON application with OHCA.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 23 Nay 0 (02/25/2011)